

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DRAGANA ZUGAY on behalf of herself
and all others similarly situated

Plaintiff,

-against-

NELSON, WATSON & ASSOCIATES, LLC

Defendant.

CV 10 1942

CLASS ACTION COMPLAINT

TOWNES, J.

Introduction

1. Plaintiff Dragana Zugay seeks redress for the illegal practices of Nelson, Watson & Associates, LLC concerning the collection of debts, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA").

Parties

2. Plaintiff is a citizen of the State of New York who resides within this District.
3. Plaintiff is a "consumer" as that term is defined by Section 1692(a)(3) of the FDCPA, in that the alleged debt that defendant sought to collect from plaintiff is a consumer debt, purportedly owed to Capital One Services, LLC.
4. Upon information and belief, defendant is a Massachusetts corporation with a principal place of business is located in Haverhill, Massachusetts.
5. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ APR 29 2010 ★

(ST) LONG ISLAND OFFICE

POLLAK, M.

6. Defendant is a “debt collector” as that term is defined by the FDCPA, 15 U.S.C. § 1692(a)(6).

Jurisdiction and Venue

7. This Court has Federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.
8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as the acts and transactions that give rise to this action occurred, in substantial part, in this district. Venue is also proper in this district since the defendant transacts business in this district and the collection letter was sent into this district.

Allegations Particular to Dragana Zugay

9. On information and belief, on a date better known by defendant, defendant began attempting to collect an alleged consumer debt from the plaintiff.
10. Upon information and belief, defendant sent the plaintiff an initial collection letter seeking to collect a balance allegedly owed to Capital One Services LLC incurred for personal purposes dated March 29, 2010.
11. Said letter sets forth the balance being \$945.92.
12. The said letter further states: “The above referenced account has been placed with this office for collection. Remittance of the payment in full is hereby requested. To obtain your most current balance information, please call our office at 800-798-3961.”
13. The defendant has not quantified the amount of the debt.
14. The least sophisticated consumer would not know whether to mail in \$945.92 or some other amount without calling the 800 number.

15. The defendant was attempting to collect the listed balance plus the interest running on it or other charges.
16. The said letter from the within defendant is in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692e(10) for engaging in deceptive practices and 1692g for failing to set forth the accurate balance of the alleged debt.

AS AND FOR A FIRST CAUSE OF ACTION

Violations of the Fair Debt Collection Practices Act brought by plaintiff on behalf of himself and the members of a class, as against the defendant.

17. Plaintiff restates, realleges, and incorporates herein by reference, paragraphs 1-16 as if set forth fully in this Cause of Action.
18. This cause of action is brought on behalf of plaintiff and the members of a class.
19. The Class consists of consumers who received the same form letter, as did the plaintiff.
20. The Class consists of all persons whom Defendant's records reflect resided in the State of New York and who were sent a collection letter (a) bearing the defendant's letterhead in substantially the same form as the letter sent to the plaintiff on or about March 29, 2010 concerning Capital One Services LLC; (b) the collection letter was sent to a consumer seeking payment of a personal debt to Capital One Services LLC; and (c) the collection letter was not returned by the postal service as undelivered, (d) and that the letter contained violations of 15 U.S.C. § 1692e(10) and 1692g.
21. Pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and preferable in this case because:

- (A) Based on the fact that the collection letters that are at the heart of this litigation are mass-mailed form letters, the class is so numerous that joinder of all members is impracticable.
 - (B) There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members. The principal question presented by this claim is whether the Defendant violated the FDCPA.
 - (C) The only individual issue is the identification of the consumers who received the letters, (*i.e.* the class members), a matter capable of ministerial determination from the records of Defendant.
 - (D) The claims of the plaintiff are typical of those of the class members. All are based on the same facts and legal theories.
 - (E) The plaintiff will fairly and adequately represent the class members' interests. The plaintiff has retained counsel experienced in bringing class actions and collection-abuse claims. The plaintiff's interests are consistent with those of the members of the class.
22. A class action is superior for the fair and efficient adjudication of the class members' claims. Congress specifically envisions class actions as a principal means of enforcing the FDCPA. 15 U.S.C. 1692(k). The members of the class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the classes would create the risk of inconsistent or varying adjudications

resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy.

23. If the facts are discovered to be appropriate, the plaintiff will seek to certify a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

24. Collection letters, such as those sent by the defendant are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer."

Violations of the Fair Debt Collection Practices Act


25. The defendant's actions violate the Fair Debt Collection Practices Act.

26. Because the defendant violated of the Fair Debt Collection Practices Act, the plaintiff and the members of the class are entitled to damages in accordance with the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiff, respectfully requests that this Court enter judgment in his favor and on behalf of the members of the class, and against the defendant and award damages as follows:

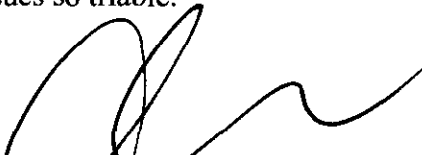
- (a) Statutory damages provided under the FDCPA, 15 U.S.C. 1692(k);
- (b) Attorney fees, litigation expenses and costs incurred in bringing this action; and
- (c) Any other relief that this Court deems appropriate and just under the circumstances.

Dated: Cedarhurst, New York
April 28, 2010



Adam J. Fishbein, P.C. (AF-9508)
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Attorney for the Plaintiff
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Telephone (516) 791-4400
Facsimile (516) 791-4411

Plaintiff requests trial by jury on all issues so triable.



Adam J. Fishbein (AF-9508)


CAPO285167


 PO Box 1299
 Haverhill MA 01831
 RETURN SERVICE REQUESTED

Nelson, Watson & Associates, LLC
 80 Merrimack Street Lower Level
 Haverhill, MA 01830
 Phone: 800-798-3961 • Fax (978) 469-9046
 www.nelsonwatson.com

March 29, 2010

Creditor: Capital One Services LLC
 Acct#:455817668
 Total Balance as of 03/29/10: \$945.92


 0026020024001327407910312343957-R1--TYD76774F6 2083
 CAPO285167 - A20 - 2083
 Dragana Zugay
 157 Memphis Ave Apt 2
 Staten Island NY 10312-3439


 Nelson, Watson & Associates, LLC
 PO Box 1299
 Haverhill MA 01831-1799

*** Detach Upper Portion And Return With Payment ***

2083-ACNWAA10-1/10/10

Creditor: Capital One Services LLC
 Acct No: 455817668

Principal: \$944.57
 Interest: \$1.35
 Total Balance as of 03/29/10: \$945.92

The above referenced account has been placed with this office for collection. Remittance of the payment in full is hereby requested.

To obtain your most current balance information, please call our office at 800-798-3961. For your security, please make all payments payable to Nelson, Watson & Associates, LLC.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

THIS COLLECTION AGENCY IS LICENSED BY THE NEW YORK CITY DEPT OF CONSUMER AFFAIRS PERMIT# 1116152

Please call Monday or Wednesday 8:30am to 9pm EST, Tuesday, Thursday or Friday 8:30am to 5pm EST, or Saturday 9am to 1pm EST.

This communication is from a debt collector. This is an attempt to collect a debt. All information will be used for that purpose.

Sincerely,
 Lindsay Tarmy
 Consumer Services Department

Please Note: When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. Funds may be withdrawn from your account as soon as the same day we receive the check and you will not receive your check back from your financial institution.

IF YOU WISH TO PAY BY CREDIT CARD, CIRCLE ONE AND FILL IN THE INFORMATION BELOW AND RETURN THE ENTIRE LETTER TO US.



\$			
Account Number	Payment Amount	Expire Date	CVV
Card Holder Name		Signature of Card Holder	